



TOWN OF SOUTHERN SHORES

5375 N Virginia Dare Trl, Southern Shores, NC 27949

(252) 261-2394 tel (252) 255-0876 fax

www.southernshores-nc.gov

received
2-11-19
by email

Application No. ADA-19-01 Date 2-11-19
Application Fee \$350.00 Receipt No. 654519

THIS FORM IS A NOTICE OF APPEAL TO THE BOARD OF ADJUSTMENT. THE BOARD OF ADJUSTMENT MAY HEAR AND DECIDE APPEALS OF ADMINISTRATIVE DECISIONS OF ADMINISTRATIVE OFFICIALS CHARGED WITH ENFORCEMENT OF THE TOWN'S ZONING ORDINANCE OR ANY OTHER ORDINANCE THAT REGULATES LAND USE OR DEVELOPMENT AS PROVIDED UNDER THE TOWN CODE OF ORDINANCES. ADDITIONAL PAGES MAY BE ATTACHED TO ANSWER ANY QUESTIONS IN THE APPLICATION OR TO PROVIDE ANY SUPPLEMENTAL INFORMATION.

1. Applicant Name James L. Conner, II

Mailing Address 4819 Emperor Boulevard

City Durham State NC Zip Code 27703 Telephone (919) 749-9943

2. Property Owner Name (If different from Applicant) Gwendolyn Snyder-Smuts

Mailing Address 8102 N. Wilkinson Court

City Richmond State VA Zip Code 23227

Telephone (804) 264-2639

3. Property (If decision being appealed is specific to a particular property):

Street Address 134 Ocean Boulevard, Kill Devil Hills, NC 27948

Tax Parcel Identification Number 021851000

Subdivision Name SO/SH Amended Plat B Section# 2

Lot# 1A

Zoning District Classification RS-1

Current Use of Property Under construction

4. Date of administrative decision being appealed see attached addendum

5. Attach a copy of the administrative decision being appealed. (Please consult Town Code Sec. 36-366 (a)(1) for examples of appealable administrative decisions.) attached

6. Describe the specific provisions or portions of the decision being appealed.
The decision being appealed is the issuance of the attached "Zoning/Development Permit"
#2019-05, and in particular its certification that the referenced use "conforms with all
applicable provisions of the Town of Southern Shores Ordinances" and its subsidiary

Ordinances.

- See attached addendum

- See attached addendum

- See attached addendum

10. Are any attachments being submitted with this application? Yes x No _____

If yes, please identify attachments and number of pages.

Addendum attached for Question 4 – 1 page

Zoning Permit attached for Question 5 – 1 page

Addendum attached for Question 7 – 1 page

Addendum attached for Question 8 – 1 page

Addendum with list of property owners attached for Question 9 – 2 pages

CERTIFICATION

I certify that the information filed by me in this application is accurate to the best of my knowledge, information, and belief.

Property Owner Signature

Date

STATE OF _____, COUNTY OF _____

On this _____ day of _____, 20____

_____ personally appeared before me and is known to me to be the person who signed the foregoing instrument and he/she acknowledged that he/she signed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

Signature of Notary Public _____

My Commission expires _____, 20____

CERTIFICATION BY APPLICANT OTHER THAN PROPERTY OWNER

I James Conner (your name) file this application on the behalf of Gwen Smith (property owner name).

I am the attorney (attorney, contractor, etc.) for the property owner in this matter and file this application with the full knowledge and consent of the property owner. I certify that the information filed by me in this application is accurate to the best of my knowledge, information, and belief.

[Signature]
Signature

2/11/2019
Date

STATE OF NC, COUNTY OF Buncombe
On this 11 day of Feb, 2019

James Conner personally appeared before me and is known to me to be the person who signed the foregoing instrument and he/she acknowledged that he/she signed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

Signature of Notary Public Brian K. Clark

My Commission expires 5-25, 2020



ADDENDUM TO NOTICE OF APPEAL TO BOARD OF ADJUSTMENTS

4. Date of administrative decision being appealed

The zoning permit being challenged was issued January 9, 2019. Ms. Smuts has not been given notice of the issuance at all by the permittee nor the Town. Ms. Smut's counsel got notice of the permit issuance on January 11, 2019. No sign complying with Town Code Section 36-366(b)(3) has been posted on the property.

ZONING PERMIT #2019-05



TOWN OF SOUTHERN SHORES
Planning and Code Enforcement
5375 N Virginia Dare Trl, Southern Shores, NC 27949
(252) 261-2394 Ext 4 - office (252) 255-0876 - fax
www.southernshores-nc.gov

ZONING/DEVELOPMENT PERMIT

PERMIT TYPE: Residential Zoning Permit

ZONING DISTRICT: RS-1

SETBACKS: FRONT - 25

SIDE - 15

REAR - 25

ISSUED TO:

Location: 134 Ocean Blvd
Parcel: 021851000 PIN: 986708789574
District: 20- SOUTHERN SHORES
Subdivision: 50/SH AMENDED PLAT B SEC 2
LotBlkSect: LOT: LOT 1A BLK: 20 SEC: 2

134 OCEAN BLVD LLC
P. O. BOX 90
KILL DEVIL HILLS NC 27948

DETAILS: Construction of a new single-family dwelling with 12 bedrooms, 24 person septic capacity, 5,644 sq. ft enclosed habitable living space, 2,232 sq. ft. non-heated areas, 808 sq. ft. pool, hot tub, tiki bar, beach walkway with dune deck

It is hereby certified that the above use as shown on the plats or plans submitted with the application conforms with all applicable provisions of the Town of Southern Shores Ordinances. The issuance of this permit does not allow the violation of the aforementioned ordinances or any other governing regulations. The applicant is responsible for obtaining a building permit (if required) prior to commencing work on the proposed improvement. A final zoning inspection may be required by the Zoning Administrator upon completion of the proposed improvement.

CONDITIONS:

1. Must meet the setback requirements shown above. As-built survey required to demonstrate compliance.
2. Maximum building height is **47.6 ft.** above msl using the average of the original grade at the corners of the proposed structure at 12.6 ft. Height certificate required to demonstrate compliance.
3. Lot coverage shall not exceed 30%. As-built survey required to demonstrate compliance.
4. Total enclosed living space for the single-family dwelling shall not exceed 6,000 sq. ft.
5. Following construction of the proposed improvements, the property shall retain all stormwater generated by a 1.5 inch rain event and will not adversely affect any stormwater management system previously constructed by the Town or on adjacent properties
6. The building permit and other Town permits in this matter have been issued, at least in part, based upon the prior issuance of a CAMA permit for the project. As you are aware, third parties have challenged the issuance of the CAMA permit and potential litigation

ZONING PERMIT #2019-05

on that issue continues. Construction of the project while the potential litigation is ongoing is done AT YOUR OWN RISK that the litigation will ultimately result in the revocation or voiding of the CAMA permit and the corresponding revocation of this building permit or other Town permits and/or denial or revocation of any certificates of compliance/occupancy received. If such occurs, you likely will not be able to occupy the structure and might be required to tear down, dismantle or otherwise remove the structure. You may wish to consult with your counsel, if you have obtained counsel, before proceeding with construction pursuant to the building permit and other Town permits reliant upon the validity of the CAMA permit.

APPROVED BY:

Wm. Hunt
Zoning Administrator

1-8-19
Date Approved

Grace B. M. M. M.
Applicant / Owner/Contractor

1-9-19
Date Issued

ADDENDUM TO NOTICE OF APPEAL TO BOARD OF ADJUSTMENTS

7. Specify the grounds for your appeal. Fully explain how the administrative official inaccurately interpreted and/or applied the terms of the Town's Zoning Ordinance or other applicable ordinance. What do you believe to be the correct answer, and why?

The zoning official improperly interpreted and/or applied the Town's zoning ordinance by certifying that the subject project complied with the terms of the Town's RS-1 zoning district. The subject project is a manifestly commercial project, which might be labelled a party venue, a mini-hotel, or an event house, but is unquestionably a business. The project violates the unambiguous intent of the ordinance, set out explicitly in Section 36-202(a). The project is not a single family dwelling. The project includes structures that are not customary accessory buildings. The project does not comply with home-based business requirements. RS-1 zoning does not allow any businesses other than home based businesses meeting those requirements. RS-1 is the most restrictive zoning in Southern Shores, not even allowing churches (unlike R-1, also low density single family zoning, which does allow churches). Even swimming lessons are only conditionally allowed, and only between 8:00 a.m. and 6:00 p.m. The correct answer was to decline to issue a zoning permit for this project. These grounds will be more fully elucidated as this case progresses.

ADDENDUM TO NOTICE OF APPEAL TO BOARD OF ADJUSTMENTS

8. If you are not the property owner, or if the decision was not issued to you, explain the facts which give you standing to appeal the administrative decision. (Please consult Town Code Sec. 36-366(b)(1) and G.S. 160A-393(d) to determine whether or not you have standing. If you have questions about standing, you may wish to consult an attorney.)

Ms. Smuts owns two properties across the street from the proposed development at 134 Ocean Blvd., 131 and 133 Ocean Blvd. She will suffer special damages as a result of the decision being challenged. As a neighboring property owner, she will suffer special damages distinct from the rest of the community, including *inter alia* noise and traffic from this site (12 bedrooms, 24 parking spaces; outdoor party facilities including a tiki bar—replacing a small single family home); reduced property value; being the first to be affected by failures of the septic system, which is being allowed to be constructed within 10 feet of the property line and 10 feet of the water supply; loss of quiet enjoyment of her formerly peaceful beach property; and loss of views towards the ocean. Ms. Smuts reserves the right to allege and prove additional impacts as this matter progresses

ADDENDUM TO NOTICE OF APPEAL TO BOARD OF ADJUSTMENTS

9. List the names and addresses of all **abutting** property owners and the owners of property **immediately across the street** from the property affected. The list shall be current according to the most recent tax listing abstract as filed in the office of the Dare County Tax Supervisor. (If you posted a sign on the property affected in the manner provided by Town Code Sec. 36- 362(b), please indicate the date of such posting and provide any pictures you may have of the posting).

Properties to the left of 134 Ocean Boulevard

| | |
|---------------------|---|
| 136 Ocean Boulevard | Herman and Bell E. Sadler P.O. Box 32, Emporia, Virginia 23847 |
| 138 Ocean Boulevard | Lynn and James Graves 205 Graves Mountain Lane, Syria, Virginia 22743 |
| 140 Ocean Boulevard | James and Layne Klein 7150 Ragland Rd #17, Cincinnati, Ohio 45244 |
| 142 Ocean Boulevard | Robert and Clarence Perkinson P.O. Box 421, Bluefield, West Virginia 24701 |
| 144 Ocean Boulevard | Albert Sjoerdsma 826 Main Street, Apartment 4, Ann Arbor, Michigan 48104 |

Properties to the right of 134 Ocean Boulevard

| | |
|-----------------------|--|
| 132 A Ocean Boulevard | Southern Shores Civic Association 5377 Virginia Dare Trail N, Kittyhawk, NC 27949 |
| 132 Ocean Boulevard | Mattamuskeet Gun Club LLC 1037 North Shore, Norfolk, Virginia 23505 |
| 130 Ocean Boulevard | Raymond and Nancy Johnson 6 Pembroke Ct, Oakridge, New Jersey 07438 |
| 128 Ocean Boulevard | 128 Surfside Cottage LLC P.O. Box 82, Earlysville, Virginia 22936 |
| 126 Ocean Boulevard | 126 Ocean LLC 421 B. McArthur Drive, Elizabeth City, NC 27909 |

Properties directly across the street

| | |
|-----------------------|---|
| 131 Ocean Boulevard | Nelson Kurt Snyder and Gwendolyn K Snyder Smuts 9127 Lakeland Valley Ct, Springfield, Virginia 22153 |
| 133 Ocean Boulevard | Nelson T. Snyder III Trustees and Rotraut Snyder 8104 N Wilkinson Ct, Richmond, Virginia 23227 |
| 135 Ocean Boulevard | David J. and Jane Evans Delbianco 835 Cherry Lane, Wrightstown, PA 18940 |
| 135 A Ocean Boulevard | Antonio and Anne Ruiz 94 Small Drive, Elizabeth City, North Carolina 27909 |
| 0 Trinite Trail | Chicahauk Property Owners Association, Inc. 5377 N. Virginia Dare Trail, Southern Shores, NC 27949 |
| 137 Ocean Boulevard | James S. Mccaskill 1271 Millers Lane, Manakin Sabot, Virginia 23103 |

ANN G SJOERDSMA
69 HICKORY TRAIL
KITTY HAWK, NC 27949

1003
68-894514

2/11/19 DATE

CHECK AMOUNT
AMOUNT IN FIGURES

PAY TO THE
ORDER OF

Three hundred fifty ^{xx}/₁₀₀ DOLLARS 350.00



TOWNE BANK

Senior Partner

2 Juniper Trail
Spencer, NC 27949

FOR

Spencer's Feet for Ann & Sjoerdma
[Redacted]

Photo
Safe
Deposit
Boxes on back

RECEIPT

DATE

2-12-19

No.

654519

RECEIVED FROM

Ann G. Sycamore

\$ 350.00

DOLLARS

FOR RENT

1000 Oakwood Apartments - 134 Grand

St.

ACCOUNT

PAYMENT

\$350.00

BAL. DUE

- ☒ CASH
☐ CHECK
☐ MONEY
☐ ORDER
☐ CREDIT
☐ CARD

FROM

Publicist - J. J. (MARTIN)

TO

Superior

BY

MS